

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

MICHAEL HANEY,

PLAINTIFF,

v.

HALL HYUNDAI NEWPORT NEWS, LLC, ET AL.,

DEFENDANTS.

Civil Action No.:

NOTICE OF REMOVAL

Defendant Hall Hyundai Newport News, LLC, (“Hall”), by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, hereby invokes the jurisdiction of this Court and files this Notice of Removal in the above-captioned case from the Circuit Court for the City of Newport News to the United States District Court for the Eastern District of Virginia, Newport News Division. In support, Defendants state as follows:

I. Procedural History

1. On or about January 20, 2023, Plaintiff filed a Complaint in the Circuit Court for the City of Newport News, Case No. CL2300266M-00. *See* Virginia Circuit Court Case Record, attached hereto as Ex. 1.

2. On or about February 13, 2023, Plaintiff filed a Motion to Amend the Complaint. *See id.* The Circuit Court for the City of Newport News granted this Motion on February 22, 2023.

3. On February 22, 2023, by agreement of the Parties, Plaintiff served his original Complaint and Amended Complaint upon counsel for Hall via email.

4. Hall has not filed or served any answer or any other responsive pleadings to Plaintiff's Complaints or made any appearances or arguments before the Circuit Court for the City of Newport News in this matter.

5. This Notice is filed with this Court within thirty (30) days of service of Plaintiff's pleadings on Hall, and before any proceedings were had thereupon in the Circuit Court for the City of Newport News, as required by 28 U.S.C. § 1446(b).

6. Hall submits this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted.

7. The remaining Defendants have not been served at the time of filing of this Notice of Removal.

II. Compliance with 28 U.S.C. §§ 1441 and 1446

8. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides in part that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

9. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1441(a). The Circuit Court for the City of Newport News is located within this District and cases arising in City of Newport News are properly assigned to the Newport News Division of this Court. See L. Civ. R. 3(B).

10. Written notice of the filing of this removal of the above-captioned action pursuant to 28 U.S.C. § 1446(d) is being delivered to Plaintiff, through his counsel. A copy of this Notice of Removal will be promptly filed with the Clerk of Court for the Circuit Court of the City of Newport News as required by 28 U.S.C. §1446(d). A copy of the Notice of Filing of Notice of Removal is attached hereto as Ex. 2.

III. Federal Question Jurisdiction

11. Pursuant to 28 U.S.C. § 1331, the district courts have original jurisdiction of all civil actions “arising under the Constitution, laws, or treaties of the United States.”

12. In the Amended Complaint, Plaintiff alleges that:

- a. “Defendant Hall Hyundai, by and through its employees, violated Mr. Haney’s rights under Title VII (42 U.S.C. § 2000e, et seq.) and the Virginia Human Rights Act by engaging in actions and/or activities constituting hostile work environment sexual harassment.” Am. Compl. ¶ 49; and
- b. “Defendant Hall Hyundai, by and through its employees, agents, and officer, including supervisory employees intentionally, willfully, and wantonly retaliated against Mr. Haney because of Mr. Haney’s complaints of discrimination” in violation of 42 U.S.C. § 2000e-3. Am. Compl. ¶¶ 52-53.

13. Accordingly, because the Plaintiff alleges that Hall engaged in conduct which is unlawful under federal statutes, specifically Title VII, this Court has original jurisdiction over this action as it arises under the laws of the United States.

IV. Supplemental Jurisdiction

14. Pursuant to 28 U.S.C. § 1337, the district courts have supplemental jurisdiction over other claims that are so related to claims within the courts’ original jurisdiction “that they form part of the same case or controversy under Article III of the United States Constitution.”

15. Aside from claiming unlawful conduct under Title VII, the Amended Complaint alleges that:

- a. The same conduct violates the Virginia Human Rights Act, Va. Code § 2.2-3900, *et seq.* See Am. Compl. ¶¶ 44-55;
- b. Defendants negligently failed to prevent or stop the allegedly unlawful conduct. Am. Compl. ¶¶ 56-52; and
- c. The allegedly unlawful conduct forming the basis of the Amended Complaint also constitutes intentional infliction of emotional distress. Am. Compl. ¶¶ 63-67.

16. Accordingly, because the remainder of Plaintiff's claims are part and parcel of the same case and controversy giving rise to Plaintiff's claims under Title VII, this Court has supplemental jurisdiction over those claims.

WHEREFORE, Hall respectfully requests that this action be removed from the Circuit Court for the City of Newport News to the United States District Court for the Eastern District of Virginia, Newport News Division.

Dated: March 15, 2023

Respectfully submitted,

HALL HYUNDAI NEWPORT NEWS, LLC

By: _____ /s/
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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and a copy was served on the following via email and First-Class U.S. mail:

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HALL HYUNDAI NEWPORT NEWS, LLC

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